



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/750,744	12/28/2000	Hyung Byum Kim	13788	7201

7590 06/24/2002

Thomas M. Parker,
Kimberly-Clark Worldwide, Inc.
Patent Department
401 North Lake Street
Neenah, WI 54956

EXAMINER

WEBB, JAMISUE A

ART UNIT

PAPER NUMBER

3761

DATE MAILED: 06/24/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/750,744

Applicant(s)

KIM ET AL.

Examiner

Jamisue A. Webb

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 April 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 28 and 31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. With respect to Claim 28: the phrase “the pledget comprises a composite of an airlaid material and a TABCW” is indefinite. “Airlaid” and “TABCW” are methods used to form a layer of material, where individual fibers are formed to make a layer, therefore it is unclear how one layer can comprise a composite of an airlaid material and a TABCW. How is this layer formed? Is it a laminate of two layers?

4. With respect to Claim 31: the phrase “the pledget has a first surface situated adjacent the garment-facing surface of the cover and a second surface bonded to at least one of the absorbent core or wrapping material” is indefinite. If the wrapping material wraps around the core, then how is it possible for the pledget to be attached to the core and adjacent the cover at the same time, and if the wrapping material is around the entire article then how can pledget be situated adjacent the garment facing surface of the cover while being attached to the wrapping element. This claim, claims a wrapping element, therefore with the wrapping element, how can the pledget be bonded to both the garment facing surface of the topsheet and the core?

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 27-33, 25 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hamajima et al. (6,326,525) in view of Jackson et al. (5,643,240).

6. With respect to Claims 23-28, 35 and 37: Hamajima discloses the use of an absorbent article (1) with a core (33) and a two layer pledget (27, 24) made out of a non-woven material (column 5, lines 11-18).

7. With respect to the cover layer being hydroentangled and hydroapertured. Hamajima discloses the topsheet being an apertured nonwoven fabric (column 5, line 1), therefore being entangled and apertured, the formation of the apertures and entanglement are Product-by-Process limitations, and these limitations are not limited to the manipulations of the steps, only the

Art Unit: 3761

structure implied by these steps (see MPEP 2113). It follows that if the product in the claim with the product-by-process limitation is the same as the product of the prior art, the claim is unpatentable even though the prior art was made by a different process. Therefore, cover layer being entangled and apertured using a hydro method or means, is anticipated in the Hamajima reference.

8. Hamajima fails to disclose the pledget being a through air bonded carded web. Jackson discloses the use of a layered article, where the top layer, or pledget (26) is made from a lofty nonwoven material that is made by through air bonded carded staple fiber web, having a basis weight of between 17-35 gsm and a fiber denier of 3. (column 6, lines 47-63). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the pledget of Hamajima, be made of the material of Jackson, in order to maintain a lofty layer which will maximize fluid intake and minimize rewet (see Jackson, column 4).

9. With respect to Claim 29: See Column 6, lines 50-56.

10. With respect to Claim 30: Hamajima discloses the pledget being the same length as the article, which in Figure 1 and 3 measure over 100mm, and the width being between 15-60mm (column 3, lines 44-46).

With respect to Claims 31-33: Hamajima discloses the use of a cover (23), a wrapping element (31), a fluid distribution layer (24), and embossed grooves that are between 0.1-5mm (column 4, lines 44-46) (See Figure 2A and B).

11. Claims 34 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hamajima in view of Reiter et al. (5,769,834).

Art Unit: 3761

12. With respect to Claim 34: Hamajima, as disclosed for claim 23 above, fails to disclose the topsheet comprising rayon material. Reiter discloses the use of a topsheet that comprises well-known material such as rayon and rayon/polyester blend. (column 5, lines 11-31). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the topsheet of Hamajima be made of rayon or rayon/polyester blend of Reiter, in order to have a topsheet with relatively hydrophobic materials having good strike-through characteristics. (see Reiter column 5).

13. With respect to Claim 36: Reiter discloses the rayon/polyester blend, but does not disclose the specifics of 70% rayon and 30% polyester. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the amount of rayon be 70% and the amount of polyester be 30%, since it has been held that where the general conditions of a claim are disclosed in the prior art, that discovering the workable range or obvious range involves only routine skill in the art. *In re Aller*, 105 USPQ 233

Response to Amendment

3. Applicant's arguments with respect to claims 23-37 have been considered but are moot in view of the new ground(s) of rejection.

4. With respect to Applicant's arguments that it can be readily observed by the figures that the pledget can be adjacent the garment facing surface of topsheet, and bonded to either the absorbent core or the wrapping element: In the claim, as well as in the Figures, the absorbent core is surrounded by the wrapping element. If the pledget was bonded to the core, then it would be adjacent the garment facing surface of the wrapping element, therefore how can the pledget be

Art Unit: 3761

adjacent the garment facing surface of the topsheet and bonded to the core (which is a choice in the claim).

5. With respect to Applicant's arguments that Hamajima does not disclose the through air bonded carded web with the claimed basis weight and fiber density: See new rejection above.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamisue A. Webb whose telephone number is (703) 308-8579. The examiner can normally be reached on M-F (7:30 - 4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dennis Ruhl can be reached on (703)308-2262. The fax phone numbers for the

Art Unit: 3761

organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

jaw

June 18, 2002



DENNIS RUHL
PRIMARY EXAMINER